

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

EDDIE LEE JOHNSON,  
  
Plaintiff,

VS.

CAPTAIN PEDIGO, ET AL.,  
  
Defendants.

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NO. 4:13-CV-841-A

O R D E R

Plaintiff, Eddie Lee Johnson, who is incarcerated in the Tarrant County Jail, filed the instant complaint pursuant to 42 U.S.C. § 1983, naming as defendants Captain Pedigo, Captain M. Gravitt, and Lieutenant R. Fowler. Plaintiff neither paid the filing fee nor sought leave to proceed in forma pauperis. The United States Magistrate Judge considered plaintiff's eligibility for in forma pauperis status, and determined that plaintiff has had at least three previous cases dismissed as frivolous. Consequently, plaintiff is barred from proceeding under 28 U.S.C. § 1915 absent certain exceptional circumstances not present here.

The magistrate judge recommended that plaintiff not be allowed to proceed in forma pauperis in this action, and also recommended that plaintiff be required to pay the full filing and administrative fees of \$400.00 within seven days after this court made any final determinations concerning plaintiff's in forma pauperis status. The magistrate judge further recommended the

undersigned advise plaintiff that failure to pay the filing fee could result in the dismissal of this action without further notice for want of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.<sup>1</sup> The magistrate judge ordered that plaintiff file any objections by November 8, 2013. As of the date this order is signed, plaintiff has filed nothing in response to the magistrate judge's order.

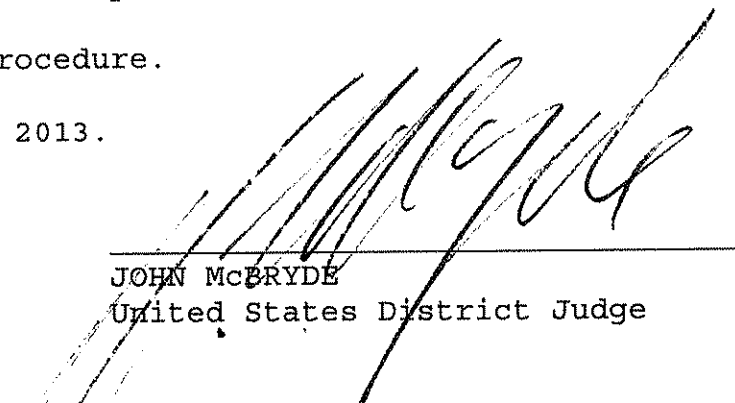
Therefore,

The court accepts the recommendations of the United States Magistrate Judge and ORDERS that plaintiff be, and is hereby, denied the right to proceed in forma pauperis in this action.

The court further ORDERS that by 4:00 p.m. on November 19, 2013, plaintiff pay to the Clerk of the court the full filing and administrative fees of \$400.00.

The court further ORDERS that failure of plaintiff to comply with the terms of this order may result in the dismissal of this action without further notice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

SIGNED November 12, 2013.



JOHN MCBRYDE  
United States District Judge

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<sup>1</sup>Rule 41(b) contemplates that a dismissal under it will be on motion of a defendant. However, the court has inherent authority to dismiss, sua sponte, an action for want of prosecution. See Link v. Wabash R.R. Co., 370 U.S. 626, 630 (1962); Jones v. Caddo Parish Sch. Bd., 704 F.2d 206, 214 (5th Cir. 1983).